

# **EXHIBIT “A”**

PAGE 02

05/16/2006 02:31 917183697871 BSVES  
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2006BX026125

BRONX SUPREME COURT  
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF NEW YORK

v.

STATE OF NEW YORK

COUNTY OF THE BRONX

1. ANGEL TOLEDI M/33

2. MARK KAPITI M/35 - 182

Defendants

PO MAUREEN ENNIS of VICE ED, Shield# 2705, states that on or about May 15, 2006 at approximately 10:15 PM at corner of Sedgwick Avenue & Stevenson Place, County of the Bronx, State of New York,

## THE DEFENDANTS, ACTING IN CONCERT, COMMITTED THE OFFENSES OF:

- 1 (M) P.L. 270.00(2)(a)(ii) Unlawfully Dealing with Fireworks  
 2 (M) P.L. 270.00(2)(a)(i) Unlawfully Dealing with Fireworks  
 3 (V) P.L. 270.00(2)(b)(i) Unlawfully Dealing with Fireworks

IN THAT THE DEFENDANTS, ACTING IN CONCERT, DID: did offer or expose for sale, sell or furnish, any fireworks or dangerous fireworks valued at five hundred dollars or more; did offer or expose for sale, sell or furnish, any fireworks or dangerous fireworks AND did possess, use, explode or cause to explode any fireworks or dangerous fireworks.

## THE GROUNDS FOR THE DEPONENT'S BELIEF ARE AS FOLLOWS:

Deponent states that, at the above time and place, deponent observed defendants acting in concert, in that, she observed both defendants placing fifteen (15) boxes inside the cargo compartment of a 2006 Acura SUV, New York license plate number DNC4337. Deponent further states that several of said fifteen (15) boxes were labeled: FIREWORKS. Deponent further states that the above mentioned boxes contained a variety of explosive items. Deponent further states that said fireworks were valued in excess of five hundred dollars (\$500), United States currency.

Deponent further states that neither defendant had a license or permit as required by law to possess said fireworks. Deponent further states that, based

SUV HELD FOR FORFEITURE

7/11 MCP RON



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BSVES

PAGE 03

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5/16/2006 2:16:08 AM PAGE 003/003 Fax Server

upon her training and experience, which includes training in the recognition of fireworks and its packaging, the aforementioned combustible, explosive or inflammable items are alleged and believed to be fireworks.

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE  
AS A CLASS A MISDEMEANOR PURSUANT TO P.L. 210.45

5/16/06 0215<sup>hrs</sup> Det Edwards  
DATE and TIME SIGNATURE



# **EXHIBIT “B”**

## VEHICLE/BOAT INVOICE

PD 671-147 (Rev. 5/01)-Port

B 103699 V

## CATEGORY OF PROPERTY:

☐ Rotation Tow (See Reverse Side of Yellow Copy)  
☐ Arrest Evidence

☒ Forfeiture  
☐ Investigation

☐ Safekeeping  
☐ Determine True Owner
☐ Photo-ReleaseDATE **MAY 15** YR **2006** Pct. **05**

Arresting/Assigned Officer

Rank

Shield No.

Tax Reg. No.

Command

**DET EMBIS****Det****2705****926804****ESPTS**

Year of Veh.

Make

Model

Type

Color

Veh. Ident. No.

**2006****ACURA****SUV****SUV****GREY****2HMYD1866GH516660**

No. of Lic. Plates

Lic. Plate No.

State

Certificate of Inspection

Veh./Boat Running

Boat Found Adrift

☐ One ☒ Two ☐ None**DEC4337****NY****NY**☒ Yes ☐ No☐ Yes ☐ NoItem  
Pct. City

No. of Tires

No. of Bags

Battery  
☒ Yes ☐ NoRadio  
☐ AM ☒ AM/FM ☐ NoneOther Sound Equip.  
☐ CD ☐ Cass ☐ None

Special Wheels

Wheel Covers

☒ Keys With Vehicle☐ Ignition ☐ Trunk ☐ No☐ Ignition ☐ Trunk ☐ No

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# **EXHIBIT “C”**

v.

MARK KAPITI, Respondent(s).

PETITION AND NOTICE OF HEARING

A 2006 ACURA, was seized by the New York City Police Department on MAY 15, 2006 under property clerk invoice (voucher) #B103699, as the alleged instrumentality of a crime, pursuant to section 14-140 of the New York City Administrative Code. It is the intention of the Police Department to commence a civil forfeiture proceeding in order to confiscate the vehicle, and to retain the vehicle until the conclusion of those proceedings. Your acceptance of a hearing to contest the Police Department's retention of the above mentioned vehicle was received by the Police Department on May 23, 2006. The hearing has been scheduled for:

DATE: JUNE 05, 2006

TIME: 2:00 PM

PLACE: New York City Office of Administrative Trials and Hearings (OATH)  
40 Rector Street, 6<sup>th</sup> Floor  
New York, New York 10006-1705  
Phone: (212) 442-4900  
FAX: (212) 442-8910  
TDD: (212) 442-4939

In cases in which the District Attorney has determined that the vehicle is needed as evidence in a criminal proceeding, including any appeals in any such proceeding, the hearing may not be held during the period the vehicle is so needed.

At the hearing, you have the right to be present in person, and you have the right to be represented by an attorney or other representative. If you choose to be represented by an attorney or other representative, that person must file a notice of appearance with OATH prior to the commencement of the hearing. If you fail to appear at the hearing, either in person or by an authorized representative, the presiding judge may declare you to be in default, may determine that you have waived your right to a hearing, may decide the case against you in your absence, and may make other determinations in your absence.

You have a right to file an answer to this petition with OATH before the commencement of the hearing. OATH's rules of practice and procedure are published in title 48 of the Rules of the City of New York, and copies are available at OATH's offices.

New York City Police Department  
Legal Bureau, Civil Enforcement Unit

By:

  
Gina Klein

2 Lafayette Street, 5<sup>th</sup> Floor  
New York, New York 10007  
(917) 454-1111 S# 06/1678

# **EXHIBIT “D”**

To all to whom these Presents shall come or may Concern,

Know That, Honda Financial Services a corporation maintaining a place of business at 100 Kelly Way, Haverhill MA 01830

as RELEASOR,

in consideration of the release of a 2005 ACURA MDX, Vehicle Identification Number 2HRYD18666H516550, from the PROPERTY CLERK, NEW YORK CITY POLICE DEPARTMENT,

as RELEASEE,

receipt whereof is hereby acknowledged, releases and discharges the Property Clerk, New York City Police Department, the RELEASEE, RELEASEE'S heirs, executors, administrators, successors and assigns from all actions, causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEE, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE, and farther agrees:

That the RELEASORS will hold harmless the RELEASEE, the New York City Police Department, its agents, servants and employees and indemnify same from any claim or claims that may be asserted against them and for any damage, expense or cost which the New York City Police Department may suffer in connection with property vouchered under Property Clerk, New York City Police Department Invoice WH153699.

Furthermore, whereas the subject vehicle has been seized and whereas Releasee intends to commence, or has commenced, a forfeiture action to obtain legal title to the subject vehicle, Releasee has terminated its lease agreement with, and agrees not to return the subject vehicle to the custody or control of MARK KAPITI, or any member of his family and/or household.

Whenever the text hereafter requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

This RELEASE may not be changed orally.

In Witness Whereof, the RELEASOR has caused this RELEASE to be executed by its duly authorized officers and its corporate seal to be hereunto affixed on the 30 day of May, 2006

By: Tara L. Miles

Authorized agent of Honda Financial Services

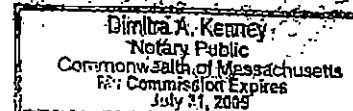
In presence of,

STATE OF MA COUNTY OF HAMDEN SS:

On the 30 day of MAY, 2006 before me Tara Miles personally came to me known, by me duly sworn, did depose and say that deponent resides at 100 Kelly Way, that deponent is the Supervisor of

Honda Financial Services the corporation described in, and which executed the foregoing RELEASE, that deponent knows the seal of the corporation, that the seal affixed to the RELEASE is the corporate seal, that it was affixed by order of the board of Directors of the corporation; and that deponent signed deponent's name by like order.

Dimitra A. Kenney  
NOTARY PUBLIC



OTAL P. 22

# **EXHIBIT “E”**

**CEU Voucher Tracking System**

**Seizure #:** 06-1678      **Voucher #:** B103699      **VIN #:** 2HNYD18666H516660      **Arrest Date:** 05/15/06  
**Take Date:** 05/19/06      **Veh Make:** ACURA      **Plate #:** DNC4337      **Arrest #:** B06632931  
**\*Storage #:** 06P00473      **Veh Year:** 2006      **Plate State:** NY      **Index #:**  
**\*Forfeiture #:**      **\*Veh Make:** ACU      **\*VIN #:** 2HNYD18666H516660  
                                  **\*Veh Year:** 2006

**Crime:** FIREWORKS**Name****NORTH  
Sent****Hearing  
Accepted****Hearing  
Notice****Hearing  
Waived****Defendant:** KAPITI, MARK

/ /

05/23/06

06/05/06

**Registrant:** KAPITI, MARK

/ /

05/23/06

06/05/06

**Title Holder:** HVT INC.,

/ /

/ /

/ /

**Hearing Atty:** TRIFFON**CEU Release Status:** RELEASE TO TITLED OWNER -**Hearing Disp:** NEEDED BY DA AS EVIDENCE - NO**Stmnt Offered:** Y      **Stmnt Accepted:** Y**CEU Final Case Disp:** GIVEBACK- RELEASE ISSUED**Retention Ordered:** N**Date CEU Closed:** 08/16/06**Litigation Atty:****\*CPAP Release Date:** 08/17/20**Classification:** FORFEITURE**Settlement Amt:** 0.00**Lien Holder:****Demand:****Permissions:****Notes:** Below entered by tax #: [REDACTED] on 12/19/2006 11:30:27 Rec ID: 213138

12/19 - Confirmed w/ ADA Benevich that the D was brought to trial and was acquitted. I gave this information to Rudy Meola. (EMR)

Below entered by tax #: [REDACTED] on 09/21/2006 16:50:22 Rec ID: 213138

Rob Fodera spoke with Rudy Meola, attorney for Honda, the lienholder in this case, on September 21, 2006; during the conversation, Mr. Meola stated that the attorney for the criminal defendant / titled owner prior to the lienholder's conversion, Mark Kapiti, is threatening to sue Honda for the return of the vehicle; Mr. Meola stated that he is going to commence an action for a declaratory judgment affirmatively holding that the contract was violated and Honda is entitled to the vehicle; he expects to name the Property Clerk as an interested party and I agreed to accept service of his S & C. RF

Below entered by tax #: [REDACTED] on 08/18/2006 09:51:19 Rec ID: 213138

Deft was info car was claimed by leasing company and released. EV

Below entered by tax #: [REDACTED] on 08/16/2006 10:34:13 Rec ID: 213138

8/16/06 DAR rec'd. issued release to leasing co. KD

Below entered by tax #: [REDACTED] on 07/10/2006 16:59:41 Rec ID: 213138

Awaiting DAR. When recd, release vehicle to TO Leasing Co. File to cabinet. GT

Below entered by tax #: [REDACTED] on 06/05/2006 12:06:12 Rec ID: 213138

**CEU voucher tracking System**

Awaiting DAR. ADA Rita Benevich wants car for evidence, will call when released. 718 590 2705. File on GT desk. GT

=====

Below entered by tax # [REDACTED] on 06/02/2006 14:50:57 Rec ID: 213138

HONDA finance will take possession. HONDA signed HH. File to basket for approval. GT

=====

# **EXHIBIT “F”**

NOVICK, EDELSTEIN, LUBELL, REISMAN,  
WASSERMAN & LEVENTHAL, P.C.  
ATTORNEYS AND COUNSELLORS AT LAW  
733 YONKERS AVENUE  
YONKERS, NEW YORK 10704

FAX (914) 375-0699

(914) 375-0100

I. SCOTT EDELSTEIN  
ROBERT H. LEVENTHAL  
PETER A. LUBELL  
EUGENE S. REISMAN  
SOL M. WASSERMAN  
EDWARD FRIEDMAN  
PETER A. LIFSON  
RAMONA L. GOODMAN  
LAWRENCE T. SCHIRO  
CRAIG D. ZIM  
CHARLES D. WASSERMAN

MATTHEW L. GORDON  
PATRICIA A. FRIEDRICH  
EILEEN P. KENNY  
PAUL T. FINKELSTEIN  
MORTON M. GOLDBERG  
STEVEN M. LESH  
STEPHEN I. WOHLBERG  
JOSEPH ZODDA

WRITER'S EXT. 248

September 11, 2006

Via Fax 518-426-3309  
Miller & Meola P.C.  
14 Corporate Woods Blvd.  
Albany New York 12211  
Attn: Rudolph J. Meola, Esq.  
518-465-7591

Re: Mark Kapiti v. Honda Financial Services  
VIN: 2HNYD18666H516660

Vehicle: 2006 Acura MDX

Dear Mr. Meola;

This office represents Mark Kapiti regarding the above and is in furtherance of our conversation.

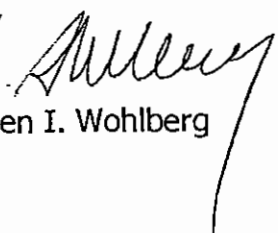
Enclosed please find copies of the following:

1. Criminal Court Complaint;
2. Property Voucher;
3. Notice of Hearing;
4. Release from Honda;
5. Letter from Honda dated 5/3/06.

Mr. Kapiti's leased vehicle was impounded by the NYPD and the subject of a forfeiture hearing. At the Hearing, Honda was entitled to claim "an innocent owner" defense and the vehicle would have been returned to Honda and my client would have received his vehicle back. Instead, Honda chose to sign a Release in favor of the NYPD, agreed in writing not to return the vehicle to my client, and no hearing was held. Honda did not have to sign the Release and letter, and did so to the detriment of Mr. Kapiti.

Demand is hereby made for the immediate return of the vehicle to Mr. Kapiti. Please be advised that in the event the vehicle is not returned within five (5) days hereof, my client is fully prepared to take all legal steps necessary to protect his interests herein.

Yours,

  
Stephen I. Wohlberg

SIW/bms

NOVICK, EDELSTEIN, LUBELL, REISMAN,  
WASSERMAN & LEVENTHAL, P.C.  
ATTORNEYS AND COUNSELLORS AT LAW  
733 YONKERS AVENUE  
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L. SCOTT EDELSTEIN  
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JOSEPH ZODDA

WRITER'S EXT. 248

September 20, 2006

Via Fax 800-457-9931  
American Honda Finance Corporation  
600 Kelly Way  
Holyoke, Massachusetts 01040  
Attn: Tara L. Miles  
800-807-7724 x1416

Re: Mark Kapiti  
VIN: 2HNYD18666H516660  
Vehicle: 2006 Acura MDX

Dear Ms. Miles;

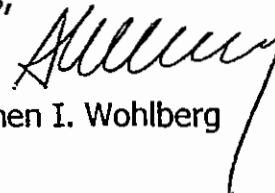
This office represents Mark Kapiti regarding the above, and is in furtherance of our conversation of today.

Enclosed please find a copy of my letter dated September 11, 2006 to your general counsel.

You advised that the vehicle was sent to auction. Demand is hereby made that the vehicle be immediately returned to my client and not sold.

Please be advised that Mr. Kapiti is fully prepared to take all legal steps necessary to protect his interests herein, including, but not limited to the commencement of a lawsuit where he will seek damages as well as costs and legal fees.

Yours,



Stephen I. Wohlberg

cc: Rudolph J. Meola, Esq. Via Fax 518-426-3309  
SIW/bms

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STEVEN M. LESH  
STEPHEN I. WOHLBERG

WRITER'S EXT. 248

January 10, 2007

Mark Kapiti  
3890 Sedgwick Avenue, Apt. 5D  
Bronx, New York 10463  
718-440-7054

Re: Mark Kapiti v. Honda  
VIN: 2HNYD18666H516660, Vehicle: 2006 Acura MDX

Dear Mr. Kapiti:

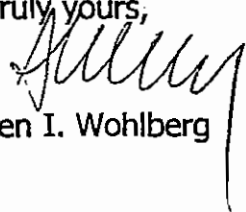
I have had several conversations with Mr. Von Johnston, paralegal, Ross Gelfand, Esq., 1265 Minhinette Drive, #150, Rosswell GA. 30075, 800-899-4353 x 4627, fax 770-840-8575, attorney for Honda Financing, who demanded \$6,048.95. In order to settle this matter now, Honda would agree to a \$2,000 reduction, and accept \$4,048.

Enclosed please find a copy of your vehicle payment history faxed to me by Mr. Von Johnston. Honda claims you did not make the 2/06 lease payment and were therefore always one month behind in your payment. Accordingly, when the police seized your vehicle, Honda decided to exercise its option to repossess the car based on your default in payments, as outlined in their letter of 5/3/06, a copy of which is enclosed.

Please provide me with copies of the front and back of your checks showing that you were in fact current with your payments.

Please feel free to contact me regarding this matter.

Very truly yours,

  
Stephen I. Wohlberg

SIW/bms  
encls.

NOVICK, EDELSTEIN, LUBELL, REISMAN,  
WASSERMAN & LEVENTHAL, P.C.  
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MORTON M. GOLDBERG  
STEVEN M. LESH  
STEPHEN I. WOHLBERG

WRITER'S EXT. 248

February 5, 2007

Via Certified Mail RRR  
Law Offices of Ross Gelfand  
1265 Minhinette Drive, Suite 150  
Roswell, Georgia 30075  
Attn: Maxine Tate, Esq.  
678-287-4602

Re: Mark Kapiti v. Honda Financial Services  
VIN: 2HNYD18666H516660

Vehicle: 2006 Acura MDX

Dear Ms. Tate;

This office represents Mark Kapiti regarding the above and is in furtherance of our conversation and my conversations with Mr. Von Johnston of your office.

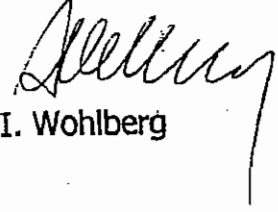
When Honda wrongfully repossessed my client's vehicle, Honda issued a signed sworn statement dated 5/30/06, by Tara Miles, Customer Account Representative for Honda Financial Services, stating "Mark Kapiti is in default of a contractual agreement dated 2/6/06. The account is due for \$504.20".

However, this sworn statement is flatly contradicted by the "backup information" provided by Honda. According to the Client Payment History you sent me generated by Honda, both the 5/4/06 and 6/4/06 invoices state "Total past Due: \$0.00".

Thus according to Honda's own records, Mr. Kapiti had a ZERO (\$0.00) past due amount when Honda wrongfully repossessed his vehicle on or about 5/30/06.

Accordingly, demand is once again hereby made for the immediate return of the vehicle to Mr. Kapiti and that Honda notify and remove the negative rating from all credit agencies. Please be advised that in the event same is not done within five (5) days hereof, my client is fully prepared to take all legal steps necessary to protect his interests herein.

Yours,

  
Stephen I. Wohlberg

SIW/bms

# **EXHIBIT “G”**

SUPREME COURT OF THE STATE OF NEW YORK NO FEE  
BRONX COUNTY  
851 GRAND CONCOURSE  
BRONX, NY 10451

CERTIFICATE OF DISPOSITION - MISDEMEANOR/VIOLATION

DATE: 12/14/2006

CERTIFICATE OF DISPOSITION NUMBER: 13008

PEOPLE OF THE STATE OF NEW YORK  
VS.

CASE NUMBER: 26125C-2006  
LOWER COURT NUMBER(S): 2006BX026125  
DATE OF ARREST: 05/15/2006  
ARREST #: B06632931  
DATE OF BIRTH: 08/08/1970

KAPITI, MARK

DEFENDANT

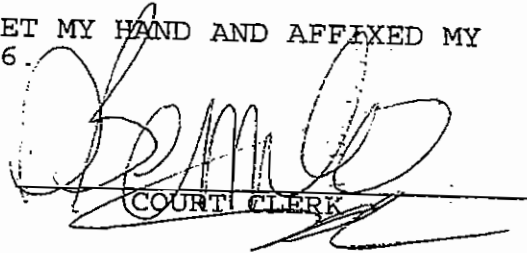
I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS ON FILE IN THIS OFFICE THAT ON 11/17/2006 THE ABOVE NAMED DEFENDANT WAS TRIED AND FOUND NOT GUILTY OF ALL PENDING CRIMINAL CHARGES AS TO THIS CRIMINAL ACTION BEFORE THE HONORABLE FABRIZIO, R THEN A JUDGE OF THIS COURT.

THE DEFENDANT WAS DISCHARGED FROM THE JURISDICTION OF THE COURT.

THE ABOVE MENTIONED ACQUITTAL IS A TERMINATION OF THE CRIMINAL ACTION IN FAVOR OF THE ACCUSED AND PURSUANT TO SECTION 160.60 OF THE CRIMINAL PROCEDURE LAW "THE ARREST AND PROSECUTION SHALL BE DEEMED A NULLITY AND THE ACCUSED SHALL BE RESTORED, IN CONTEMPLATION OF LAW, TO THE STATUS OCCUPIED BEFORE THE ARREST AND PROSECUTION".

PURSUANT TO SECTION 160.50(1C) OF THE CRIMINAL PROCEDURE LAW, ALL OFFICIAL RECORDS AND PAPERS RELATING TO THIS CASE ARE SEALED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL ON THIS DATE 12/14/2006.

  
COURT CLERK